IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

WP(C).No. 25279 of 2007(H)

AGAINST THE ORDER IN IA 3688/2007 IN
GOP.309/2006 of VI ADDL.DISTRICT COURT, ERNAKULAM

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PETITIONER:

MR.JAYA PRAKASH, S/O.NARAYANA MENON,
AGED 46 YEARS, GEETHANJALI, BHARATH MATHA
COLLEGE POST, THRIKKAKARA, PIN - 682 021.

BY ADV. SRI.ZAKEER HUSSAIN
SMT.K.A.SANJEETHA

RESPONDENTS:

MRS.PADMAKSHI AMMA,
W/O.GOPALAKRISHNA MENON,
AGED 71 YEARS, KRISHNA NIVAS,
THIRUVANCHIKKULAM, METHALA VILLAGE,
PIN - 680 664.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J.

WP(C)No.25279 OF 2007 H

Dated this the 20th August, 2007.

JUDGMENT

This writ petition is preferred against the order of the VI Additional District Judge, Ernakulam dismissing G.O.P.309/06 on failure to comply with the direction to execute a bond for Rs.50,000/- in the prescribed form. The writ petitioner is the father of the minor children. An item of property was purchased by the petitioner in the joint names of him and his wife Smt. Bindu. Smt. Bindu died and on her death the children have become the co-owners of the property. The petitioner is working in a national bank in Kuwait and one Ittirachan had agreed to purchase the property for Rs.50 lakhs. The court, on a consideration found it that it is beneficial to the interest of the minors to sell the property and therefore granted permission and also directed the father to deposit the share of the minors in a nationalised bank in the joint names of the minors in the court till they attain majority. He was also directed to execute a bond for Rs.50,000/- on or before 2.5.2007. Unfortunately the petitioner did not comply with the said direction. He moved an application contending that he was away employed at gulf countries and as the certified copy of the order was received

subsequently he was not in a position to come and execute the bond as directed by the court. I feel that there is no willful laches or negligence on the part of the writ petitioner. The court having found that the sale is for the beneficial interest of the minors should have granted him further time to execute the bond and then comply with the other directions contained in the order. Therefore, the order dismissing the G.O.P is set aside and direction is given to the petitioner herein to execute the bond for Rs.50,000/- as directed on or before 20.9.2007. If the bond is executed as corollary it follows that the sale can be proceeded with and the deposit in the name of the minors as ordered by the court be complied with. Writ petition is disposed of accordingly.

M.N.KRISHNAN
Judge

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